

The yeas and nays being called on the engrossment, stood as follows :

Yeas : Messrs. Brashear, Burleson, Davis, Gage, Grimes, Kinney, McRae, Parker, Pease, Phillips, Portis, Taylor, Truit and Van Derlip—14.

Nays : Messrs. Cooke, Hart, Latimer, Moffett, Robertson, Ward, Walker and Wallace—8.

So the bill was ordered to be engrossed.

On motion of Mr. Gage, the motion to reconsider the vote which rejected a bill to amend an act entitled an act to prescribe the time of the biennial meeting of the Legislature of the State of Texas was taken up.

The yeas and nays were called on the reconsideration of the vote and stood as follows :

Yeas : Messrs. Cooke, Gage, Moffett, Parker, Pease, Robertson, Taylor, Truit and Ward—9.

Nays : Messrs. Brashear, Burleson, Davis, Grimes, Hart, Kinney, Latimer, McRae, Phillips, Portis, Van Derlip, Walker and Wallace—13.

The Senate refused to reconsider the vote.

A message was received from the House of Representatives, through their Chief Clerk, informing the Senate that the House had adopted a resolution referring to a Select committee of five, consisting of Messrs. Sterne, Bryan, Wilson, Williams and Stapp, that portion of the Governor's message which refers to quieting the land titles of the State, and request that the Senate appoint a like committee to act with the committee of the House.

Also, that the House had passed a joint resolution authorizing the Governor to employ counsel to represent the State, during the present session of the Supreme Court in which they suspended all rules.

On motion of Mr. Parker, the Senate adjourned.

THURSDAY, 9 o'clock, A. M., January 3, 1850.

The Senate was called to order by the President. Senators present :—Messrs. Brashear, Burleson, Cooke, Davis, Gage, Grimes, Hart, Kinney, Latimer, McRae, Moffett, Parker, Pease, Phillips, Portis, Robertson, Taylor, Truit, Van Derlip, Ward, Walker and Wallace.

Prayer by the Chaplain. The journals of yesterday were read and adopted.

Mr. Moffett, chairman of the committee on Engrossed Bill, reported a bill to provide for the collection of the uncollected taxes assessed for and due the late Republic of Texas, and a bill supplementary to an act regulating appeals to the Supreme Court in criminal cases, approved the 12th May, A. D. 1846, correctly engrossed.

Mr. Latimer made the following report:

COMMITTEE ROOM, January 3, 1850.

To the Hon. John A. Greer,

*President of the Senate:*

The committee on Public Lands have had under consideration the bill to secure to all actual settlers within the limits of the colony granted to Peters and others, commonly known as Peters' colony, the land to which they are entitled as colonists, and have instructed me to recommend the bill which passed the House of Representatives as a substitute for the Senate's bill, and recommend its passage, with the following amendments:

1st amendment: In 5th sec., 2d line, strike out "grants and," and insert "lawful."

2d amendment: In 6th sec., 2d line, insert "heretofore" before "surveyed," and strike out "by the colony company."

3d amendment: In 7th sec., 4th line, strike out all after "colonist" to "prior," in 5th line.

4th amendment: In 10th sec., 2d line, insert "heretofore" after "surveys," and strike out "by Peters and others, his associates."

5th amendment: In 10th sec., 5th line, strike out all after "made" to "and," in 7th line.

Mr. Grimes made the following report:

COMMITTEE ROOM, January 3, 1850.

To the Hon. John A. Greer,

*President of the Senate:*

The committee on Finance, to whom was referred a bill making an appropriation for the *pro rata* pay of Thomas P. Anderson, deceased, surgeon in the navy of the late Republic of Texas, have had the subject under consideration, and a majority of the committee have instructed me to report the bill back to the Senate and recommend its passage. Messrs. Grimes and Hart not concurring.

Mr. Kinney made the following report:

COMMITTEE ROOM, January 3, 1850.

To the Hon. John A. Greer,

*President of the Senate:*

The committee on Indian Affairs, to whom was referred a resolution of the Senate instructing them "to enquire into



and report upon the expediency of granting to Hosea Maria and the remainder of his tribe of Indians leave to occupy and cultivate three leagues of land, at the pleasure of the Government of Texas, and under her protection in the county of Milam or Navarro and near the Comanche Peak," have had the same under consideration, and instructed me to report the same back to the Senate, and beg leave to be discharged from the further consideration thereof.

Mr. Wallace made the following report:

COMMITTEE ROOM, January 3, 1850.

*To the Honorable President of the Senate:*

A majority of the Special-committee, to whom was referred a bill to be entitled an act to divide the State into two Supreme Court Districts, having duly considered the subject, report that the people of Eastern Texas, constituting a majority of all the inhabitants of the State, have ever, since the location of the Supreme Court at Austin, insisted, through their representatives in both branches of the Legislature, that some place, more central to population and business, should be selected. The Court is now almost inaccessible to them, on account of the distance at which its sessions are held from them, and the impracticability of crossing, after much rain, several rivers which traverse the intervening country. Most of the large water-courses in the State flow south-eastwardly through the State to the Gulf of Mexico, and periodically overflow the contiguous low or flat land to a depth from two to ten feet, and to the width of two or three and sometimes five miles; these separate the eastern population from the court at Austin, and cannot be crossed at such times, except at the imminent peril of their lives, especially as the overflowed low lands frequently cannot be crossed in any other way than on horse-back. When these rivers can be crossed in a ferry boat, it not unfrequently happens that the traveller is detained for several days together, because of his inability to entice the ferry-man to cross for him; at other times it is impossible for him to communicate his wants to the ferry-man in any way, and then he is compelled to wait until some one is ferried over from the hills on the opposite side. This evil, though inevitable under the present arrangement, does not suspend the adjudication of the delayed person's business, and consequently he is subjected to irreversible judgments which must, in some instances, be oppressive, unjust and ruinous in their effects.

The delay, fatigue and peril in performing a journey of eight or ten days' length, in good weather, and proportionally longer



and more arduous, in an inclement season, are attended with considerable expense. These evils are not *necessary*; they can be averted by the Legislature, and the action of that department of the people's government is invoked by the people. If the Legislature can devise and safely use a means for the removal of the evils, justice to those who encounter, and have hitherto borne them, interposes with reason, on their behalf, and appeals, in the strongest terms, for relief.

It would be trifling with the equal rights of those people to reply that the attorneys and not the litigants encounter what is complained of, for all experience proves that *clients pay for all*; but were it otherwise, the principle would be the same, since if the evils mentioned be surmounted by the attorneys east of Trinity river, instead of their clients there, *the cost falls upon the east*, and is an onerous tax upon it which the people wish to avoid as far as may be compatible with the advancement and prosperity of their government, and with ample justice to their fellow-citizens of the west.

To show the expediency of dividing the State into two Supreme Court Districts, much that might be adduced argumentatively, but that would be erroneously ascribed to hostility to Austin (a sentiment utterly disclaimed by the committee) will be omitted, rather than subject themselves to a suspicion so unworthy; they, however, feel impelled by a sense of justice to other portions of the country to express their belief that Austin possesses no local advantage over any one out of fifty other different places; some of which are almost unexceptionable, as to health, water and ordinary comfort; further specification will be withheld, as the bill before the committee does not provide for the removal of the Supreme Court from Austin, but to establish an *Eastern District* for the convenience of the suitors in that part of the State, without interfering with the routine of western business, and without imposing on any single western suitor, or any citizen west of the Trinity river an expense, fatigue or inconvenience that he is not constrained to encounter and endure by the present organization. It is not contemplated by the bill to disarrange any plan of the citizens of the west, relative to their business in Austin, nor will the committee, independently of the bill, discuss the propriety of legislating, in reference thereto, especially as diverse wishes are expressed by those citizens, in regard to a further division of the State into Supreme Court Districts.

It is contended by some who are opposed to any division, that it is impolitic, because it is convenient to dispose of business in the Land Office and in the Supreme Court, at and during one



visit to Austin. This convenience to persons residing west of the Trinity will not be impaired by establishing a court district east of the Trinity, nor can they, in justice to themselves or their neighbors, persist in forcing that convenience upon people who consider it a curse; they do not expect to have the General Land Office located in their midst as convenient to them as it might be there; they only ask for a half loaf—a Supreme Court District.

Some object to a division of the State into *two* Districts, because the constitution prohibits a division of it into *more than three districts*. This objection like "Aaron's serpent swallows all the rest."

If by dividing the State, *none* would be benefitted, and *some* would be injured, it would be impolitic; but if *many* would be benefitted, and *none injured*, the converse would be established, and a division should be made. No injury can result to *any* by the division proposed; many in the east think they would be benefitted; and as it is their privilege to think for themselves, they reasonably ask the Legislature to secure to them their rights under the constitution by giving them a Supreme Court District. The concluding sentence of the third section of the fourth article of the constitution: "and the Supreme Court *shall* hold its sessions once in every year, between the months of October and June inclusive, at *not more than three places* in the State," is not merely permissive, in the opinion of some members of the committee, but is emphatically declaratory of the duty of the court, and mandatory as to the *sessions* and *places* at which they shall be held; but if the sentence be only *permissive* in its effects, as the phraseology clearly indicates the belief of the convention that the court would hold annual sessions at *places*, the majority of the committee cannot conceive that remote parts of the State should be longer permitted to petition in vain for that court to hold sessions at some other place, as well as at Austin.

It is a goodly thing to have law; and a better thing to have oracles who can tell the people what manner of law is to be dispensed among them; but the people, east of Trinity, only hear that such blessings are in store for them, without perceiving their presence. Would it startle Texas to hear that a Judge of the Supreme Court of the State has never, since its organization, been seen east of the Trinity river, where a majority of the citizens of Texas reside? If it would, the majority of the committee will not say so much, though they believe it is a fact.

The seeing of a Supreme Court Judge, how gratifying source soever it might be to the citizens there, will not satisfy them,



since it is a *Supreme Court* consisting of *two Judges* at least that they deserve to see.

Others oppose the passage of any bill similar to that before the committee, because there is not a State library in the east ! Yet none will seriously contend that there is a *State Law Library* in Austin, nor does the majority of the committee imagine that the court can better dispense justice to eastern suitors, without a library, at Austin, than it could, without a library, at any place in the east where its sessions might be held. The little village of Henderson in which, it is proposed, the court shall be held for the eastern district, is supposed by some to be about twice as large as the city of Austin, and to contain law libraries in proportion—enough at least to enable the court to have the things there “that are Cæsar’s rendered unto Cæsar.”

The people of the east will not be satisfied with such a compliment from the Legislature as that which Festus paid to Paul, when he said “thou *almost* persuadest me;” no, they have reflected maturely, and with all the solemnity of Paul, are ready to say,—“most noble, we are not mad,”—we want a *Supreme Court*; give us one, and we will go our way rejoicing.

Others still opposed to the present bill, ask for argument : one which some of the committee think irrefragable, is at hand—to wit : a *majority of the people*, under the sanction of the constitution *have*, at every session of the Legislature, *asked* for a division of the State into *two Supreme Court Districts*, and they ask for it now.

The policy that sacrifices the incontestible rights of one part of community to the caprice of another part, is a political gorgon, which no well organized government will maintain or tolerate long; a perseverance in it would lead to uncontrollable disaffection and complaint ; it would be violative of the fundamental principles of natural law, some of which, it is true, have been abridged or overleaped by municipal legislation (whether wisely, or during a forgetfulness of their philosophic truth and justice need not be here inquired into). The committee think it would be prudent at all times to respect the rights of others, and as those who ask the Legislature to divide the State into *Supreme Court Districts* for the convenience of the people, are acting, in accordance with oft-repeated instructions, (than which nothing terrestrial is deemed more potent,) given under the conviction that it was in the prosecution of an established constitutional right, which cannot be effectually assailed and controverted, a majority of the committee think it would be supererogatory to assign additional reasons, or to enforce by argument those already ad-



duced in favor of the proposed division. Legitimate, rational free government in all its ramifications is intended to secure the convenience of the governed; and whenever it ceases to be effective to that end, the governed are oppressed, if not enslaved; and the government is approximating to despotism. Whenever any department of government presumes to overrule popular will fairly expressed, and enforce its own, that department loses its character of dependence on, and accountability to the people, and becomes dictatorial and absolute, unless restrained by a co-equal department; between the two, the spoil is generally divided, and thus is illustrated the truth of the political adage that "power is ever stealing from the many to the few."

The guardians of the people's rights appease the people's discontent, when their rights have been infringed or overlooked, by affording redress and future security; and to the Legislature—the political guardians of the people, the citizens of the east have earnestly appealed to be placed in the actual (not constructive) enjoyment of their constitutional right by having the Supreme Court to hold an annual session east of Trinity river for them. A majority of the committee, therefore, recommend the passage of the bill referred to them.

The committee have deliberated upon those portions of the resolutions adopted at the public meeting in Henderson, on the 29th of November, 1849, so far as they relate to the Supreme Court, and have herein reported the views of the majority of the committee, and deeming it expedient to return the residue of said resolutions to the Senate for action, they respectfully recommend that the same be referred to the committee on the Judiciary.

B. RUSH WALLACE,

*Chairman of Special Committee.*

Mr. Grimes introduced a bill to prohibit the collection by law of any debt that shall accrue for spirituous liquors sold in quantities, less than one gallon; read first time.

Mr. Brashear introduced a bill requiring costs to be paid in certain cases of appeals to the Supreme Court, and changes of venue; read first time.

Mr. Burleson introduced a bill to establish the eastern boundary of Bastrop county; read first time.

A message was received from the House of Representatives, informing the Senate that the House had adopted the following resolution:

*Resolved*, (the Senate concurring,) That the executive communication, on the subject of the debt of the late Republic of

Texas, together with the report of the Auditor and Comptroller on the same, be referred to the joint standing committee of the two Houses on Public Debt;

Also, that the House concurred in the amendment of the Senate to the House's resolution to count the votes for Commissioner of the General Land Office.

Mr. Walker introduced a joint resolution, authorizing and requiring the Commissioner of the General Land Office to issue a certificate to J. H. Singleton for one-third of a league of land; read first time.

#### ORDERS OF THE DAY.

On motion of Mr. Taylor, the report of the joint select committee appointed to examine the Penitentiary, was referred to the committee on the Penitentiary.

The President announced a communication from the Governor; which was as follows:

EXECUTIVE DEPARTMENT, }  
AUSTIN, Jan. 1, 1850. }

*To the Hon. the Senate and  
House of Representatives:*

I have the honor to transmit herewith the joint report, with the accompanying documents, from the Auditor and Comptroller of Public Accounts, made in conformity with "An act to provide for ascertaining the debt of the late Republic of Texas," approved March 20th, 1848.

The report commends itself to the especial notice of the Hon. Legislature from the great importance of the subject it embraces, as well as from the labor and industry which it is manifest has been displayed by the board in their efforts to comply with the above-recited law. As it is subject to the revision and amendment of the Legislature, it can be determined, upon close investigation, whether the principles adopted in scaling the different classes of liabilities, are equitable and just.

The report exhibits that there is a very large amount of outstanding liabilities, not presented for audit, belonging to the first class, and provided for under the laws of the late Republic of Texas; and justice would seem to demand that the holders of these liabilities should not be excluded from the benefits intended to be conferred by the passage of the act of the 20th March, 1848. There is also a considerable amount of unexamined second class claims on file, which it has been found impracticable,



for want of sufficient time, to act upon, but which are just and *bona fide*, having been contracted under the sanction of law.— They are reported by the board for the sanction of the Legislature.

It will be necessary, to enable the board (should it be continued) to receive and audit the liabilities of the third class, to pass the proper laws for that purpose. Among this class of claims, there will be found a large number of the most meritorious character, and it is even-handed justice to place them on an equal footing with those embraced by previous laws. I therefore, respectfully recommend to the Hon. Legislature a continuance of the board, with the same powers heretofore extended to them, and such others as may by you be deemed expedient, for the period of twelve months, or to such time as may be actually required, to be determined by the Executive, from the semi-annual reports required to be made to him under the 3d section of the act named in this communication.

P. H. BELL.

Messrs. Robertson, Latimer, Gage, Pease and Phillips were appointed a committee, on the part of the Senate, to act with the committee, appointed on the part of the House, to take into consideration that part of the Governor's message which refers to quieting the land titles of the State.

On motion of Mr. Phillips, the committee on State Affairs was directed to act with the committee on Public Debt on the part of the House, on the Executive's communication on the subject of the public debt, together with the report of the Auditor and Comptroller on the same.

Mr. Parker offered the following resolution :

*Resolved*, That the committee on the Penitentiary, on the part of the Senate, act in conjunction with the committee on the Penitentiary, on the part of the House, on the report of the joint committee of the two Houses to examine the penitentiary.

A bill to quiet land titles issued to colonists, previous to Nov., 1835, in the colonies of Austin, De Witt and De Leon; read, and, on motion of Mr. Phillips, laid on the table.

Resolution of the Senate, relative to the election of United States Senator, was read.

Mr. Taylor moved to lay it on the table until the 4th of July next.

Mr. Grimes moved to lay it on the table until the 1st of November, 1851.



On motion of Mr. Parker, the resolution was laid on the table.

Mr. Van Derlip, from the committee on Enrolled Bills, reported a bill to provide for the civil organization of the counties of Presidio, El Paso, Worth and Santa Fe, and a bill creating the counties of Presidio, El Paso and Worth, correctly enrolled.

A bill to apportion the Senators and Representatives of the Legislature among the several counties of this State, according to the requirements of the constitution; read third time.

Mr. Parker offered the following amendment:

"That Nacogdoches and Cherokee, 1477, form one Senatorial District, and that Nacogdoches be the returning county." "That Angelina, Houston and Anderson form one district, 918, and that Houston county be the returning county"; adopted—two-thirds voting for it.

Mr. Walker offered the following amendment:

Strike "Dallas" from the 6th Senatorial District and attach it to the 3d; upon which the yeas and nays were called, and stood as follows:

Yeas: Messrs. Brashear, Burleson, Cooke, Davis, Gage, Grimes, Hart, Kinney, Latimer, McRae, Moffett, Parker, Portis, Robertson, Taylor, Truit, Van Derlip, Ward and Walker—19.

Nays: Messrs. Pease and Phillips—2; Mr. Wallace declined voting—amendment adopted, and bill passed by the following vote:

Yeas: Messrs. Brashear, Burleson, Cooke, Davis, Gage, Grimes, Hart, Kinney, Latimer, McRae, Moffett, Parker, Pease, Phillips, Portis, Taylor, Van Derlip and Walker—18.

Nays: Messrs. Robertson, Truit, Ward and Wallace—4.

Mr. Robertson presented the petition of Thomas J. Allen; which was, on motion of Mr. Robertson, referred to the committee on Public Lands.

The Senate repaired to the Hall of the House of Representatives for the purpose of counting the votes given on the 1st Monday in August last for Commissioner of the General Land Office.

#### IN JOINT SESSION.

Messrs. Brashear and Davis were appointed tellers, on the part of the Senate.

The votes having been counted, it appeared that George W. Smyth received 10,370 votes; Thomas Wm. Ward received 4,652 votes; John M. Wade received 144 votes, and John P. Borden received 3 votes.



George W. Smyth having received the greatest number of votes, was declared, by the Speaker of the House of Representatives, duly and constitutionally elected Commissioner of the General Land Office for two years from and after the expiration of his present term.

On motion of Mr. Parker, the Senate returned to their chamber, and, on motion of Mr. Gage, the Senate adjourned until half past 2 o'clock, P. M.

HALF PAST 2 O'CLOCK, P. M.

The Senate was called to order—quorum present.

Memorial of the Legislature of the State of Texas, upon the subject of expenses incurred by the State in providing a military defence upon her frontier in 1848 and '49; and,

Joint resolution, relative to the payment of certain volunteer companies for services rendered on the western frontier of the State of Texas.

Mr. Wallace moved to refer the memorial and joint resolution to the committee on Finance; upon which the yeas and nays were called, and stood as follows:

Yeas: Messrs. Hart, Latimer and Wallace—3.

Nays: Messrs. Burleson, Davis, Gage, Grimes, Kinney, McRae, Moffett, Parker, Phillips, Portis, Robertson, Taylor, Truit, Van Derlip, Ward and Walker—16; lost.

Mr. Latimer moved to amend by striking out the 6th section.

The yeas and nays being called, were as follows:

Yeas: Messrs. Grimes, Hart, Latimer, Ward and Wallace—5.

Nays: Messrs. Burleson, Davis, Gage, Kinney, McRae, Moffett, Parker, Phillips, Portis, Robertson, Taylor, Truit, Van Derlip and Walker—14; rejected.

The bill was then passed to third reading.

Mr. Moffett made the following report:

COMMITTEE ROOM, January 3, 1850.

HON. JOHN A. GREER,

*President of the Senate:*

The committee on Engrossed Bills have examined the following bill, and find it correctly engrossed: A bill to be entitled an act to quiet the land titles, in certain portions of Texas, of those claiming lands, under titles issued to colonists, actual settlers, or resident citizens, before the act of the late consultation closing the Land Office in November, 1835, under the colonization laws of the Government of Mexico and the State of Coahuila and Texas, as head-rights to heads of families and to single men, where the title issued for one league and labor of land or less.



A bill to quiet the land titles, in certain portions of Texas, of those claiming lands, under titles issued to colonists, actual settlers, or resident citizens before the act of the late consultation closing the Land Office in November, 1835, under the colonization laws of the Government of Mexico and the State of Coahuila and Texas, as head-rights to heads of families and to single men, where the title issued for one league and labor of land or less; read third time.

On motion of Mr. Gage, a call of the Senate was had.

The call of the Senate was suspended, and, on motion of Mr. Robertson, bill laid on the table until to-morrow.

The Senate refused to concur in the amendments of the House to a bill to regulate ferries.

On motion of Mr. Latimer, a joint resolution, relative to the removal of obstructions to the navigation of Red River, was taken up and read first time.

A bill supplementary to an act regulating appeals to the Supreme Court in criminal cases, approved 13th May, A. D. 1846; read third time and passed.

A bill to provide for the collection of the uncollected taxes assessed for and due the late Republic of Texas; read third time and passed.

A bill to authorize the Commissioner of the General Land Office to issue a head-right certificate, first class, for one league and labor of land to James Taylor, with the report of the committee on Public Lands recommending that the amendment of the House be rejected, was read.

On motion of Mr. Phillips, the report was laid on the table, and the amendment of the House concurred in.

Joint resolution authorizing the Governor to employ counsel to represent the State in the present session of the Supreme Court.

Mr. Phillips offered a substitute for the resolution.

Mr. Van Derlip moved to amend the substitute by striking out "some person to perform the duties of the office of Attorney General," and inserting "counsel to represent the State in the Supreme Court."

On motion of Mr. Latimer, the joint resolution and substitute were referred to the committee on the Judiciary.

On motion of Mr. Taylor, a bill for the relief of persons therein named was taken up and read first time.

A bill to change the name of George North to George Douglas Bigelow; read first time.

Mr. Walker introduced a bill to repeal, in part, an act entitled



an act to reduce into one act, and to amend the several acts relating to the establishment of a General Land Office, and passed the 14th Dec., 1837; read first time.

Mr. Gage introduced a bill authorizing the Governor to employ counsel to represent the State in the Supreme Court and elsewhere until an Attorney General is elected; read first time, and, on motion of Mr. Gage, the rule was suspended; bill read second time and referred to the committee on the Judiciary.

A bill to create the county of Kinney; read first time.

A bill to amend an act to create the county of Webb, approved January 28, 1848; read first time.

Mr. Van Derlip made the following report:

COMMITTEE ROOM, January 3, 1850.

To the Hon. John A. Greer,

*President of the Senate:*

The joint committee on Enrolled Bills report that a bill entitled an act creating the counties of Presidio, El Paso and Worth; also, a bill entitled an act to provide for the civil organization of the counties of Presidio, El Paso, Worth and Santa Fé, after having been signed by the Speaker of the House of Representatives, were, this day, presented to his Excellency, the Governor, for his approval and signature.

On motion of Mr. Van Derlip, the Senate adjourned.

FRIDAY, 9 o'clock, A. M., January 4th, 1850.

The Senate was called to order by the President. Senators present: Messrs. Brashear, Barleson, Cooke, Gage, Grimes, Hart, Latimer, McRae, Moffett, Parker, Phillips, Taylor, Tritt, Van Derlip, Ward, Walker and Wallace. The journals of yesterday were read and adopted.

Mr. Van Derlip, from the committee on Enrolled Bills, reported that a bill entitled an act supplementary to an act to incorporate the Austin College was presented to the Governor, on the 3d inst., for his approval.

Mr. Grimes, chairman of the committee on Finance, to whom was referred a bill to authorize the county court of Jasper county to have levied and collected a special county tax to be applied exclusively to the erection of a jail and court-house for said county, reported the same back to the Senate for their action, the committee not being able to agree on a report.